

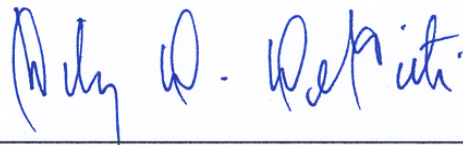
¹Plaintiff's application for fees was filed prematurely, as it preceded the Court's Order adopting the Report and Recommendation of United States Magistrate Judge Valerie K. Couch. Because the Court adopted the Report and Recommendation on the same date, however, the application was not stricken, and the Court will consider it as timely. Counsel is cautioned that future EAJA fee applications should not be filed until a Court order is filed.

The Court has reviewed the documentation submitted by Plaintiff and finds that the requested fee of \$6,664.20 represents a fair and reasonable fee for the work performed by Plaintiff's attorney in this case. The requested fee and applicable hourly rates are also consistent with Social Security regulations governing EAJA attorney fees.

Defendant does not object to Plaintiff's status as a prevailing party entitled to recover fees and expenses pursuant to the EAJA, nor does he object to the amount of the attorney fee sought by Plaintiff. As Defendant states, however, the EAJA fee must be paid directly to Plaintiff and not to her counsel. *Manning v. Astrue*, 510 F. 3d 1246, 1249-55 (10th Cir. 2007). Furthermore, if Plaintiff's counsel is ultimately granted attorney fees pursuant to 42 U. S. C. § 406(b), he must refund the smaller of the EAJA or the § 406(b) award to Plaintiff. *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

Accordingly, Plaintiff's Motion [Doc. 23] for approval of an EAJA attorney fee award in the amount of \$6,664.20 is GRANTED. Defendant is directed to pay that amount directly to Plaintiff, in accordance with the requirements of the EAJA and the Tenth Circuit Court of Appeals.

IT IS SO ORDERED this 21st day of November, 2011.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE